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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

OAKLAND DIVISION

EPIC GAMES, INC.

          Plaintiff, Counter-defendant

v.

APPLE INC.,

          Defendant, Counterclaimant

Case No. 4:20-cv-05640-YGR

DECLARATION OF MARK A. PERRY IN SUPPORT OF APPLE INC.'S ADMINISTRATIVE MOTION TO SEAL

The Honorable Thomas S. Hixson

I, Mark A. Perry, hereby declare as follows:

1.   I am an attorney licensed to practice in the State of California, and a member of the Bar of this Court. I am a partner at the law firm Weil, Gotshal & Manges LLP, counsel of record for Apple Inc. ("Apple") in this case. I am familiar with Apple's treatment of highly proprietary and confidential information based on my personal experience representing Apple. I have personal knowledge of the facts stated below and, if called as a witness, would testify competently thereto. I submit this declaration in support of Apple's Administrative Motion to Seal (the "Motion").[1]

2.   I am aware that the law of this Circuit allows information to be filed under seal for good cause or in certain compelling circumstances. I also understand that courts routinely seal filings where documents include a company's trade secrets, internal codenames, confidential research and development, or other commercially sensitive information. I understand that this Court has broad latitude to prevent the public disclosure of these categories of commercially sensitive information.

3.   Apple operates in an intensely competitive environment. Apple has serious and legitimate concerns that competitors will be quick to capitalize on any release of Apple's highly sensitive information in order to gain competitive advantage. As such, Apple takes extensive measures to protect the confidentiality of its information.

4.   Apple has carefully reviewed the exhibits to the Joint Status Report and now proposes to partially seal information therein that, if disclosed, could harm Apple's competitive business interests.

5.   Apple seeks to seal this information because disclosure of this competitively-sensitive information regarding its business codenames for ongoing confidential projects, which Apple intends to keep confidential, could put Apple at a competitive disadvantage and thus cause it economic harm. Public disclosure would reveal Apple's internal business decision-making, which could be used by competitors to gain an unfair competitive advantage over Apple.

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[1] Courts in the Ninth Circuit routinely grant motions to seal based on declarations of counsel. *See, e.g.*, *In re Apple Securities Litigation*, 19-cv-02033-YGR, Dkt. 223 (N.D. Cal.); *In re Qualcomm Litig.*, No. 17-cv-00108-GPC, Dkt. 398-1 (S.D. Cal. Mar. 26, 2018); *Avago Techs. U.S. Inc. v. Iptronics Inc.*, No. 10-cv-02863-EJD, Dkt. 544 (N.D. Cal. Apr. 3, 2015); *Cisco Sys., Inc. v. OpenTV Inc.*, No. 13-cv-00282-EJD, Dkt. 76 (N.D. Cal. Oct. 8, 2013). If the Court deems this declaration insufficient, Apple respectfully requests that it be permitted to file a further declaration supporting filing under seal.

6.   Apple has narrowly-tailored its sealing request as to maximize the public's access to court documents without jeopardizing Apple's business interests. The remainder of the exhibits to the Joint Status Report remains unredacted.

7.   Below is a chart detailing the portions of the exhibits Joint Status Report that are sealable for the reasons explained herein, as well as in Apple's Motion.

Portion of Document Sought to be Sealed	Document Title	Reason to Seal
Highlighted term in the bulleted paragraph beginning "Netherlands"	Exhibit A to Joint Status Report	Reflects non-public Apple project codenames
Last sentence of the bulleted paragraph beginning "Netherlands"	Exhibit A to Joint Status Report	Reflects non-public Apple project codenames
Highlighted term in the bulleted paragraph beginning "Japan"	Exhibit A to Joint Status Report	Reflects non-public Apple project codenames
Last sentence of the bulleted paragraph beginning "Japan"	Exhibit A to Joint Status Report	Reflects non-public Apple project codenames
Highlighted term in the bulleted paragraph beginning "Digital Markets Act"	Exhibit A to Joint Status Report	Reflects non-public Apple project codenames
Last sentence of the bulleted paragraph beginning "Digital Markets Act"	Exhibit A to Joint Status Report	Reflects non-public Apple project codenames
Highlighted term in the bulleted paragraph with text beginning, "As part of its compliance with the DMA"	Exhibit A to Joint Status Report	Reflects non-public Apple project codenames
Last sentence of the first bulleted paragraph with text beginning, "As part of its compliance with the DMA"	Exhibit A to Joint Status Report	Reflects non-public Apple project codenames
Highlighted term in the second bulleted paragraph with text beginning, "As part of its compliance with the	Exhibit A to Joint Status Report	Reflects non-public Apple project codenames

Portion of Document Sought to be Sealed	Document Title	Reason to Seal
DMA"		
Last sentence of the second bulleted paragraph with text beginning, "As part of its compliance with the DMA"	Exhibit A to Joint Status Report	Reflects non-public Apple project codenames
Last sentence of the paragraph beginning "Spotify Proceeding"	Exhibit A to Joint Status Report	Reflects non-public Apple project codenames
Last three words of bulleted paragraph beginning "The meaning and significance of other terms"	Exhibit B to Joint Status Report	Reflects non-public Apple project codenames
Highlighted term in the bulleted paragraph beginning "Netherlands"	Exhibit D to Joint Status Report	Reflects non-public Apple project codenames
Last sentence of the bulleted paragraph beginning "Netherlands"	Exhibit D to Joint Status Report	Reflects non-public Apple project codenames
Highlighted term in the bulleted paragraph beginning "Japan"	Exhibit D to Joint Status Report	Reflects non-public Apple project codenames
Last sentence of the bulleted paragraph beginning "Japan"	Exhibit D to Joint Status Report	Reflects non-public Apple project codenames
Highlighted term in the bulleted paragraph beginning "Digital Markets Act"	Exhibit D to Joint Status Report	Reflects non-public Apple project codenames
Last sentence of the bulleted paragraph beginning "Digital Markets Act"	Exhibit D to Joint Status Report	Reflects non-public Apple project codenames
Highlighted term in the bulleted paragraph with text beginning, "As part of its compliance with the DMA"	Exhibit D to Joint Status Report	Reflects non-public Apple project codenames
Last sentence of the first bulleted paragraph with text	Exhibit D to Joint Status	Reflects non-public Apple

Portion of Document Sought to be Sealed	Document Title	Reason to Seal
beginning, "As part of its compliance with the DMA"	Report	project codenames
Highlighted term in the second bulleted paragraph with text beginning, "As part of its compliance with the DMA"	Exhibit D to Joint Status Report	Reflects non-public Apple project codenames
Last sentence of the second bulleted paragraph with text beginning, "As part of its compliance with the DMA"	Exhibit D to Joint Status Report	Reflects non-public Apple project codenames
Last sentence of the paragraph beginning "Spotify Proceeding"	Exhibit D to Joint Status Report	Reflects non-public Apple project codenames

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct. Executed this 2nd day of January 2025, in Washington, D.C.

Dated: January 2, 2025   Respectfully submitted,

                                                By: */s/ Mark A. Perry*

                                                      Mark A. Perry